

FLOYD JUNIOR POWELL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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Petitioner later filed several other motions for relief from his judgment in this District and each motion was dismissed as an unauthorized, successive § 2255 motion. See (Civil Case Nos. 5:05-CV-00014-RLV, 5:12-CV-108-RJC, 5:13-CV-30-RLV, 5:14-CV-94-RLV; 5:14-CV-00007-RLV; 5:14-CV-00094).

On July 14, 2015, the Clerk docketed the present § 2255 motion in which Petitioner argues that his constitutional rights were violated during his criminal prosecution by, among other things, being tried by a jury composed exclusively of white people, prosecutorial misconduct, ineffective assistance of counsel, and he suffered a general miscarriage of justice. As noted, Petitioner has repeatedly filed § 2255 motions for collateral relief and he has raised claims which are similar, if not identical, to the claims he raises in his present motion.

II. STANDARD OF REVIEW

Pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings, sentencing courts are directed to promptly examine motions to vacate, along with “any attached exhibits and the record of prior proceedings” in order to determine whether a petitioner is entitled to any relief. After having considered the record, the Court finds that this matter can be resolved without an evidentiary hearing. See Raines v. United States, 423 F.2d 526, 529 (4th Cir. 1970).

III. DISCUSSION

As this Court has explained in previous dismissals, “[a] second or successive motion [under Section 2255] must be certified as provided in Section 2244 by a panel of the appropriate court of appeals to contain—

- (1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

28 U.S.C. § 2255(h).

Petitioner has failed to present evidence that he has obtained the necessary authorization from the Fourth Circuit to proceed with another collateral attack on his criminal judgment. The Court is therefore without jurisdiction to consider the merits, if any, in this latest collateral proceeding. See In re Vial, 115 F.3d 1192, 1194 (4th Cir. 1997); United States v. Winestock, 340 F.3d 203, 205 (2003). For the foregoing reasons, Petitioner's motion will be dismissed without prejudice.

IT IS, THEREFORE, ORDERED that Petitioner's § 2255 motion is **DISMISSED** as **successive**. (Doc. No. 1).

IT IS FURTHER ORDERED that Petitioner's motion for leave to amend charge and for disposition is **DENIED**. (Doc. No. 2).

The Clerk is respectfully directed to close this case.

IT IS SO ORDERED.

Signed: August 10, 2015



Richard L. Voorhees
United States District Judge

